

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )  
 )  
Amendment of Section 73.202(b), ) MM Docket No. 00-63  
Table of Allotments, ) RM-9837  
FM Broadcast Stations. )  
(Greenville and Cooper, Texas) )

**REPORT AND ORDER**  
**(Proceeding Terminated)**

**Adopted: January 23, 2002**

**Released: February 1, 2002**

By the Chief, Allocations Branch:

1. In response to a Petition for Rule Making filed by First Greenville Corp. and KRBE LICO, Inc. ("KRBE"), the Commission has before it for consideration the Notice of Proposed Rule Making, 15 FCC Rcd 6107 (2000), requesting the reallocation of Channel 228C3 from Greenville, Texas, to Cooper, Texas, and modification of its authorization for Station KIKT to specify Cooper as its community of license.<sup>1</sup> KRBE filed comments reaffirming its interest in an allotment at Cooper, Texas.<sup>2</sup> The City of Greenville, Texas ("Greenville City") filed comments. Cooper Radiocasting Company filed comments.<sup>3</sup> Reply comments were filed by KRBE.

2. As stated in the Notice, KRBE filed a petition for rule making pursuant to the provisions of Section 1.420(i) of the Commission's Rules which permits the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest. See Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870 (1989), recon. granted in part ("Change of Community

<sup>1</sup> KRBE LICO, Inc. became the licensee of Station KIKT pursuant to Commission approval of its assignment application on September 2, 1999, after the filing of the Petition for Rule Making (BALH-990707GE).

<sup>2</sup> KRBE filed an application to downgrade Channel 228C3 to Channel 228A at Greenville (BPH-990820ID). KRBE stated that the filing was an interim measure pending the outcome of the instant rulemaking. KRBE reaffirmed its interest in applying for a new transmitter site and constructing Channel 228C3 at Cooper should its proposal be granted.

<sup>3</sup> Comments filed by Cooper Radiocasting Company expressing interest in the allotment of Channel 228C3 at Cooper are late filed as they were received at the Commission on May 31, 2000, and will not be considered in this proceeding. Further, Section 1.420(i) permits the modification of a station's authorization without affording other parties an opportunity to file competing expressions of interest.

MO&O"), 5 FCC Rcd 7094 (1990). As indicated in the Notice, Cooper is an independent community with a 1990 U.S. Census population of 2,153 people. Cooper has its own local government, including a mayor, police department, fire station, post office and zip code (75432), housing authority, water treatment plant, independent school district, which includes a high school. Cooper has its own churches, a variety of businesses and health facilities and is the County Seat for Delta County Government Offices. Cooper would receive its first local service thus fulfilling allotment priority (3) of the Commission's allotment priorities.<sup>4</sup> This action will not deprive Greenville of local service as Station KGVV(AM) is licensed to Greenville. Retention of Channel 228C3 at Greenville would be considered under priority (4), other public interest matters. Since KRBE intends to use a new transmitter site for Channel 228C3 at Cooper, it provided a gain and loss study showing that the reallocation will not result in the creation of any white or gray area. Additionally, KRBE's proposal is mutually exclusive with its existing authorization at Greenville, Texas.

3. Greenville City filed comments opposing the reallocation of Channel 228C3 from Greenville to Cooper. According to Greenville City, the community of Greenville will be left with "marginal" local transmission service from AM Station KGVV and that the community will be severely prejudiced since the amount of critically important aural broadcast programming responsive to Greenville's needs and interests will be depleted with the loss of its only FM broadcast station. In addition, Greenville City points out that Station KIKT has become an important part of the Greenville community with broadcasts, participation in and sponsorships of many local community events and activities. According to Greenville City, reception services from other communities will not be responsive to Greenville's needs and interests and that Station KGVV(AM) cannot provide the same weather and safety information as Station KIKT and that the nighttime signal is seriously reduced with poor reception, even within the City of Greenville. Greenville City argues that the Commission should compare the retention or reallocation of Channel 228C3 under priority (3), first local service, to either community because of the loss of nighttime coverage at Greenville resulting in an underserved reception service area at night.

4. In reply comments, KRBE points out that Greenville City does not dispute that Cooper is a community deserving of its first local service. Rather, Greenville City argues that Cooper should not receive its first local service at the expense of Greenville retaining its second local service and that both communities should be evaluated under priority (3), first local service as Station KGVV(AM) does not provide the same quality of service as Station KIKT. Further, Greenville City states that the reallocation of Channel 228C3 to Cooper will create a loss area with only four services. In response to Greenville City's arguments, KRBE cites several cases where leaving a daytime only AM station in the community justified reallocation of a station. See Fredericksburg and Helotes, Texas, 10 FCC Rcd 6580 (1995), recon. granted, 11 FCC Rcd 22317 (1996), Mullins and Briarcliff Acres, South Carolina,

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3. The FM allotment priorities are: (1) First full-time aural service; (2) Second full-time service; (3) First local service; and (4) Other public interest matters. [Co-equal weight is given to priorities (2) and (3).] See Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982).

14 FCC Rcd 10516 (1999) and Pauls Valley, Oklahoma, et al., 13 FCC Rcd 13458 (1998). KRBE states that although Greenville City argues that a portion of the proposed loss area will have only four aural services, Greenville City neglected to consider Station KLIF(AM), Dallas, Texas, in its analysis. Therefore, the entire loss area is covered by at least five aural services. KRBE further states that it can use a different transmitter site for Channel 228C3 at Cooper that will cover the portion of loss area alleged to have only four services and still provide a 70 dBu signal to all of Cooper. From this new reference point, KRBE states that Station KIKT will also provide a 60 dBu signal over all of the community of Greenville. In response to Greenville City's beliefs that it will suffer a lack of community coverage with the reallocation of Station KIKT, KRBE contends that Station KGV(AM) will serve the needs of the community. KRBE states that the Commission has consistently applied the allotment priorities to favor a first local service despite population disparity or the degree of coverage by leaving an AM station in a community to provide local service.

5. Based on the above, as KRBE's reallocation request is consistent with the provisions of Section 1.420(i) of the Commission's Rules, we will reallocate Channel 228C3 from Greenville, Texas, to Cooper, Texas, and modify the authorization for Station KIKT, as requested. The reallocation will result in a preferential arrangement of allotments consistent with the Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982), as it will provide a first local aural transmission service to the community of Cooper. We acknowledge that this reallocation will remove the only FM station from Greenville but will not remove the sole local service as Greenville will continue to receive local service from Station KGV(AM). In response to concerns over adequate service from Station KGV(AM), a staff engineering analysis has determined that Station KGV(AM) operates in compliance with Section 73.24(i) of the Commission's Rules which requires that the daytime 5 mV/m contour encompasses the entire principal community and that 80% of the principal community is encompassed by the nighttime 5 mV/m contour or the nighttime interference-free contour, whichever value is higher. For purposes of Section 307(b) comparisons under the FM allotment priorities, an AM station as well as a day-time only AM station constitute an existing local transmission service. See Change of Community MO&O, 5 FCC Rcd 7097 (1990). Moreover, Greenville City's concern about removal of nighttime service from Station KIKT is ameliorated by the fact that Greenville has at least five full-time reception services.

6. Channel 228C3 can be allotted to Cooper, Texas, in compliance with the minimum distance separation requirements set forth in Section 73.207(b)(1) of the Commission's Rules at the alternate site provided by KRBE.<sup>5</sup> A Staff engineering analysis has determined that the entire Cooper and Greenville areas are well served with five or more services available to each community. Total population coverage for the proposed Cooper station will be 82,669 people in a 4,803 square kilometer area.

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<sup>5</sup> The coordinates for Channel 228C3 at Cooper, Texas, are 33-14-16 and 95-47-50. This site is located 18.2 kilometers (11.3 miles) southwest of Cooper and 30.9 kilometers (19.2 miles) east of Greenville, Texas.

7. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective March 18, 2002, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the communities listed below, as follows:

Community	Channel Number
Cooper, Texas	228C3
Greenville, Texas	-----

8. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the authorization of KRBE LICO, Inc. for Station KIKT, Channel 228, Greenville, Texas, IS MODIFIED to specify operation on Channel 228C3 at Cooper, Texas.

- (a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and,
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

9. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, IF THE REQUEST IS GRANTED, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this

proceeding, KRBE LICO, Inc., licensee of Station KIKT, is required to submit a rule making fee in addition to the fee required for the application to effect the change in community of license from Greenville, Texas, to Cooper, Texas.

10. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

11. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202)418-2180. Questions relating to the application filing process should be addressed to the Audio Services, Division, Mass Media Bureau, (202)418-2700.

John A. Karousos  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau